

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED

CLERK'S OFFICE

EDWARD TAVARES JR
(PETITIONER)

NOV 10 2004 P 12:25

v.

STEVEN O'BRIEN
(RESPONDENT)

CIVIL ACTION
NO. 04-40059-FDS

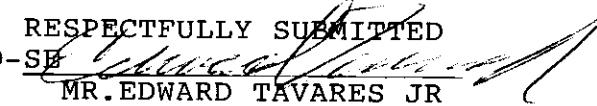
PETITIONER MOTION TO AMEND
HIS PETITION TO INCLUDE ONLY EXHAUSTED
CLAIMS

The petition, pro-se Edward Tavares Jr. moves this court, to request that the (petitioner) pro-se Edward Tavares jr. to amend his habeas corpus petition to include only those claims which are exhausted. As explained more fully in the accompanying memorandum of law, also because the respondent has filed a motion for a court order to petitioner to amend petition to include only exhausted claims, filed on November 10/2004. The respondent will not be prejudice if the court allows, or grant the petitioner motion to amend.

Further, response only requesting that petitioner amend his petition, and the court not to dismiss.

Petitioner prays this court, that he be allowed his amended petition, so he may proceed with his habeas corpus petition, wherefore those exhausted claims which the petitioner filed timely. I direct this court attention to attached affidavit and memorandum in support.

NOVEMBER 30 2004

RESPECTFULLY SUBMITTED
PRO-SE 
MR. EDWARD TAVARES JR
P.O.BOX 466
GARDNER MASS.01440

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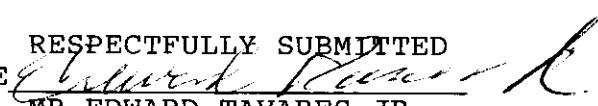
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CERTIFICATE OF COMPLAINECE
WITH LOCAL RULE 7.1

I Edward Tavares Jr., hereby certify that I am unable to speak with the respondent attorney, Daniel I. Smulow, because I am pro-se petitioner who is currently incarcerated.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above documents attached herewith has been served by first class mail postage prepaid on this 30 day of November 2004, sent to Daniel I. Smulow A.A.G. criminal bureau, One Ashburton Place, Boston Mass. 02108: SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY:

RESPECTFULLY SUBMITTED
PRO-SE 
MR. EDWARD TAVARES JR
P.O. BOX 466
GARDNER MASS. 01440